

¹ 47 U.S.C. § 301.

III. DISCUSSION

4. Section 301 of the Act sets forth generally that no person shall use or operate any apparatus for the transmission of energy of communications or signals by radio within the United States except under and in accordance with the Act and with a license. On May 14, 2002, Homere Hyppolite operated radio transmitting equipment on the frequency 99.7 MHz without benefit of the required Commission authorization.

5. Based on the evidence before us, we find that on May 14, 2002, Homere Hyppolite willfully² violated Section 301 of the Act by operating radio transmission apparatus without a license.

6. Pursuant to Section 1.80(b)(4) of the Commission's Rules, the base forfeiture amount for the violation(s) cited in this notice is \$10,000.³ Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), requires us to take into account "... the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."⁴ Considering the entire record and applying the statutory factors listed above, this case warrants a \$10,000 forfeiture.

IV. ORDERING CLAUSES

7. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act⁵ and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,⁶ Homere Hyppolite is hereby NOTIFIED of his APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willful violation of Section 301 of the Communications Act of 1934, as amended.

8. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Commission's Rules, within thirty days of the release date of this *NAL*, Homere Hyppolite SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

9. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the FRN and *NAL*/Acct. No. referenced in the letterhead above.

² 47 U.S.C. § 312(f)(1), which applies equally to Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act" *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁴ 47 U.S.C. § 503 (b)(2)(D).

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. §§ 0.111, 0.311, 1.80.

10. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12th Street, SW, Washington, DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division, and MUST INCLUDE THE NAL/Acct. No. and FRN referenced in the letterhead above.

11. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

12. Requests for payment of the full amount of this *NAL* under an installment plan should be sent to: Federal Communications Commission, Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁷

13. IT IS FURTHER ORDERED THAT a copy of this *NAL* shall be sent by regular mail and Certified Mail Return Receipt Requested to Homere Hyppolite at 4843 Devon Circle, Naples, Florida 34112.

FEDERAL COMMUNICATIONS COMMISSION

Ralph M. Barlow
District Director, Enforcement Bureau

⁷ See 47 C.F.R. § 1.1914.